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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/758,845	01/11/2001	John G. Spakousky	6739	9792

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EXAMINER

TRAN A, PHI DIEU N

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 07/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/758,845

Applicant(s)

SPAKOUSKY, JOHN G.

Examiner

Phi D A

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 and 54-56 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 and 54-56 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

2. Claims 1-4, 10-15 are rejected under 35 U.S.C. 102(a) as being anticipated by Nehring (5570552).

Nehring shows a discrete pre-assembled composite block having an outer wall (22), an inner wall (24), at least one of which is vertical load bearing (a structure is inherently load bearing by nature and the claim has not set forth the parameter for **load**, as claimed the load can be the weight of other panels) and made from a first material, a connective structure (42) formed of a second material different from the first material and connected between the outer wall and the inner wall, the connective structure comprising connective struts extending between and being connected to both the outer wall and the inner wall to securely position the block, a wall connector (20) at each end of the struts to connect the strut to the outer wall and the inner wall, the connective structure being free of direct structural connection to the wall of any other adjacent block when the block is in a wall structure (figure 1 shows the strut 20 sitting in the middle of the panel and is thus free of contact with the wall of other blocks), at least one wall

Art Unit: 3637

connector having an elongated connector (parts 68, 52 and the outer solid part), for insertion in an elongated groove in one of the outer and inner wall, the elongated groove extending substantially vertically when the block is in a substantially horizontal course of blocks in a wall structure, the strut comprising a first member (the solid part), a second member (68) joined substantially at right angles to form an elongated strut, a third member (52) together with the first and second members forming a channel shaped cross section (the opening between the parts), at least one of the struts being formed from one or more of the group consisting of a plastic, metal, or a metal alloy, the connective structure being low energy conductance (plastic).

3. Claims 1, 5-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Meendering (6293067).

Meendering shows a discrete pre-assembled composite modular block having an outer wall (10, 12', 12), an inner wall (12, 12', 10), at least one of which is vertical load bearing (a structure is inherently load bearing by nature and the claim has not set forth the parameter for **load**, as claimed the load can be the weight of other panels) and made from a first material, a connective structure (22) made of a second material different from the first material and connected between the outer wall and the inner wall, the connective structure having two or more discrete connective struts, each strut extending between and being connected to both the outer wall and the inner wall, such that the outer wall and the inner wall being securely positioned with respect to one another as opposite faces of a discrete rectangular block, the wall connector (30) being a compressible V-shaped insert-type connector (the interior forming a V-shaped) with legs compressible toward each other for frictional engagement with a groove (26) formed on an inside surface of the outer wall or the inner wall, the V-shaped further comprise at least one rib-

Art Unit: 3637

like formation (the rib besides part 30') integrally formed on the V-shaped structure to frictionally engage an adjacent wall upon insertion in a groove, the V-shaped structure further comprises at least one compression-limiting projection (the projection at the beginning of the opening of V-shaped) on the interior of the V-shaped structure, at least one connective strut having a wall connector in an elongated groove (26) in each of the inner and outer walls and the strut being positioned substantially flush (figure 1) with the top of the outer wall and the inner wall.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 54-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nehring in view of Een (2399666).

Nehring shows all the claimed limitations except for the block comprising a partitioning panel component mounted on and cooperating with the connective structure and at preassembly placed in parallel spaced relation with the outer wall, the panel being placed closely adjacent to the outer wall so as to define a weep gap between the panel and the outer wall, the panel being an insulating panel.

Een shows a structure having a partitioning panel component (8) mounted on and cooperating with the connective structure (3) and at preassembly placed in parallel spaced

Art Unit: 3637

relation with the outer wall(2), the panel being placed closely adjacent to the outer wall so as to define a weep gap between the panel and the outer wall, the panel being an insulating panel.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Nehring to show a partitioning panel component mounted on and cooperating with the connective structure and at preassembly placed in parallel spaced relation with the outer wall, the panel being placed closely adjacent to the outer wall so as to define a weep gap between the panel and the outer wall, the panel being an insulating panel because it would enhance the insulation of the structure as taught by Een.

Response to Arguments

6. Applicant's arguments with respect to claims 1-16, 54-56 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

Art Unit: 3637

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows different block structures..

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 703-306-9136. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

Phi Dieu Tran A
June 28, 2003

PA

LANNA MAI
SUPERVISORY PATENT EXAMINER
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Lanna Mai